

Department of Veterans Affairs

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demolition and site restoration, shall be included by the State in calculating the total cost of new construction.

(j) The cost of demolition of a building cannot be included in the total cost of construction unless the proposed construction is in the same location as the building to be demolished or unless the demolition is inextricably linked to the design of the construction project.

(k) With respect to the final award of a conditionally-approved grant, the Secretary may not award a grant for an amount that is 10 percent more than the amount conditionally-approved.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.90 Line item adjustments to grants.

After a grant has been awarded, upon request from the State representative, VA may approve a change in a line item (line items are identified in Form 424C which is set forth in § 59.170(o) of this part) of up to 10 percent (increase or decrease) of the cost of the line item if the change would be within the scope or objective of the project and would not change the amount of the grant.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.100 Payment of grant award.

The amount of the grant award will be paid to the State or, if designated by the State representative, the State home for which such project is being carried out or any other State agency or instrumentality. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of the project as the Chief Consultant, Geriatrics and Extended Care, may determine and certify for payment to the appropriate Federal institution. Funds paid under this section for an approved project shall be used solely for carrying out such project as so approved. As a condition for the final payment, the State must comply with the requirements of this part based on an architectural and engineering inspection approved by VA, must obtain VA approval of the final equipment list submitted by the State representative, and must submit to VA

a completed VA Form 10–0388–13 (this form is available on the internet Web site provided in § 59.170). The equipment list and the completed VA Form 10–0388–13 must be submitted to the Chief Consultant, Geriatrics and Extended Care (114), VHA Headquarters; 810 Vermont Avenue, NW.; Washington, DC 20420.

Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137

[73 FR 58880, Oct. 8, 2008]

§ 59.110 Recapture provisions.

If a facility for which a grant has been awarded ceases to be operated as a State home for the purpose for which the grant was made, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such construction as follows:

(a) If less than 20 years has lapsed since the grant was awarded, and VA provided 65 percent of the estimated cost to construct, acquire or renovate a State home facility principally for furnishing domiciliary care, nursing home care, adult day health care, hospital care, or non-institutional care to veterans, VA shall be entitled to recover 65 percent of the current value of such facility (but in no event an amount greater than the amount of assistance provided for such under these regulations), as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated.

(b) Based on the time periods for grant amounts set forth below, if VA provided between 50 and 65 percent of the estimated cost of expansion, remodeling, or alteration of an existing State home facility, VA shall be entitled to recover the amount of the grant as determined by agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated:

Grant amount (dollars in thousands)	Recovery period (in years)
0–250	7
251–500	8
501–750	9
751–1,000	10
1,001–1,250	11

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Grant amount (dollars in thousands)	Recovery period (in years)
1,251–1,500	12
1,501–1,750	13
1,751–2,000	14
2,001–2,250	15
2,251–2,500	16
2,501–2,750	17
2,751–3,000	18
Over 3,000	20

(c) If the magnitude of the VA contribution is below 50 percent of the estimated cost of the expansion, remodeling, or alteration of an existing State home facility recognized by the Department of Veterans Affairs, the Under Secretary for Health may authorize a recovery period between 7 and 20 years depending on the grant amount involved and the magnitude of the project.

(d) This section does not apply to any portion of a State home in which VA has established and operates an outpatient clinic.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.120 Hearings.

If the Secretary determines that a submission from a State does not meet the requirements of this part, the Secretary will advise the State by letter that a grant is tentatively denied, explain the reasons for the tentative denial, and inform the State of the opportunity to appeal to the Board of Veterans' Appeals pursuant to 38 U.S.C. 7105. Decisions under this part are not subject to the provisions of § 17.133 of this order.

(Authority: 38 U.S.C. 101, 501, 511, 1710, 1742, 7101–7298, 8105, 8131–8137)

§ 59.121 Amendments to application.

Any amendment of an application that changes the scope of the application or changes the cost estimates by 10 percent or more shall be subject to approval in the same manner as an original application.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.122 Withdrawal of application.

A State representative may withdraw an application by submitting to VA a

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written document requesting withdrawal.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.123 Conference.

At any time, VA may recommend that a conference (such as a design development conference) be held in VA Central Office in Washington, DC, to provide an opportunity for the State and its architects to discuss requirements for a grant with VA officials.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.124 Inspections, audits, and reports.

(a) A State will allow VA inspectors and auditors to conduct inspections and audits as necessary to ensure compliance with the provisions of this part. The State will provide evidence that it has met its responsibility under the Single Audit Act of 1984 (see part 41 of this chapter) and submit that evidence to VA.

(b) A State will make such reports in such form and containing such information as the Chief Consultant, Geriatrics and Extended Care, may from time to time reasonably require and give the Chief Consultant, Geriatrics and Extended Care, upon demand, access to the records upon which such information is based.

(Authority: 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137)

§ 59.130 General requirements for all State home facilities.

As a condition for receiving a grant and grant funds under this part, States must comply with the requirements of this section.

(a) The physical environment of a State home must be designed, constructed, equipped, and maintained to protect the health and safety of participants, personnel and the public.

(b) A State home must meet the general conditions of the American Institute of Architects, or other general conditions required by the State, for awarding contracts for State home grant projects. Facilities must meet all Federal, State, and local requirements,